UNITED NATIONS

CERD

International Convention on the Elimination of all Forms of Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1446
12 June 2001

ENGLISH
Original: FRENCH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-eighth session

SUMMARY RECORD OF THE 1446th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 12 March 2001, at 10 a.m.

Chairman: Mr. SHERIFIS

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GE.01-40975 (E) 30.04.01 12.06.01

The meeting was called to order at 10.15 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 4) (continued)

Exchange of views on speaking time

1. The CHAIRMAN invited members to discuss the question of speaking time. In the past, the Committee had agreed to give delegations 30 minutes to introduce their reports and 60 minutes to reply to questions from members of the Committee. A State party introducing its initial report could speak for 45 minutes and would have 75 minutes to reply to questions from Committee members. The country rapporteur would have 30 minutes to present his questions and observations to the delegation introducing the periodic report and 5 to 10 minutes to conclude consideration of the situation in the State party. Each member of the Committee would have 10 minutes to put his questions to the delegation of the State party. But the Committee might decide, case by case, to follow another procedure if it saw fit.

2. Mr. ABOUL-NASR said that he was opposed to limitations on speaking time. Rapporteurs sometimes asked the delegations of States parties a large number of questions which could not be answered in 60 minutes. Very often, if the delegation concerned had not had the time to reply to all the questions asked, the Committee found in its conclusions that the State party had not replied to a given question, which was unfair. The Committee's conclusions should be shortened and should open the way to questions to which the Committee would like to revert later. Thus, the Committee should not set rules for taking the floor that were too strict, but should allow the Chairman to decide case by case.

3. Mr. RECHETOV said that, if the rules on speaking time were not respected, a delegation introducing a periodic report might decide, as had happened in the past, not to reply to a particular question or questions during its 60 minutes. The Committee then gained the impression that the dialogue had been constructive, although most of the questions put to the delegation had quite simply gone unanswered. He therefore proposed that the number of subjects or topics addressed by the country rapporteur should be no more than 15, which would allow the Committee to have a very accurate idea of the number of questions answered. The country rapporteur might also ask a colleague or colleagues to consider particular chapters of the report introduced by the State party.

4. Mr. BOSSUYT said that the present procedure was satisfactory and did not need to be changed in any way. The Committee should none the less ensure that the principles were applied flexibly so as to be able to depart from them as it saw fit, i.e. when reports gave rise to more questions than usual.

5. Mr. TANG said he had no objection to the new proposals. Nevertheless, he wondered whether the 10 minutes allowed for putting questions to a delegation had to be used at one time or whether members could take the floor several times.

6. Mr. DIACONU said it was regrettable that there was no real dialogue in the Committee and that its work up to now was marked mainly by monologues. Members should be able to interrupt delegations and repeat questions if they did not receive satisfactory answers.

7. As to the time allotted for considering the reports of States parties, at the present session the Committee should have given more time to Japan's initial report. The Committee would soon be examining the periodic reports of the United States and Indonesia, countries with real problems regarding racial discrimination, and an adequate number of meetings would be needed. Members of the Committee should also be able to take the floor several times if they so desired, provided they did not repeat what other members had already said.

8. Mr. ABOUL-NASR said he agreed with Mr. Diaconu. He, too, was in favour of genuine dialogue taking place in the Committee, both with delegations and among members themselves.

9. The CHAIRMAN said he took it that the members of the Committee approved the principle of allocating more time to considering the initial reports of States parties. He supported Mr. Rechetov's proposal that the country rapporteur should ask other members of the Committee to examine certain parts of the State party's report. He also endorsed the idea of setting aside more meetings to consider the situation of countries with genuine problems of racial discrimination. The discussion would certainly be reflected in the summary records of the Committee's meetings, which were very useful documents for recalling the positions of the various members.

Proposal on the reporting procedure

10. Mr. BOSSUYT read out in English a proposal which he had prepared (CERD/C/Misc.12/Rev.1, document distributed at the meeting, in English only) and which in substance consisted in offering the Committee the possibility of suggesting in its concluding observations on reports examined shortly before the next periodic report was due, that States parties could submit their next periodic report two years after the date due. The point was not to change the periodicity but to adapt to the current situation, which was marked by the backlog in the reports for consideration, owing to the difficulties some States experienced in submitting a periodic report every two years, as well as the work load with which the Committee must contend.

11. The CHAIRMAN said he endorsed the proposal and cited the example of Algeria. Its eleventh and twelfth periodic reports had been considered the previous week and in principle it should be submitting its next report in several days' time. That was completely unrealistic.

12. Mr. PILLAI said that the problem of considering a late report, which was thus no longer up to date, might be resolved if, during the consideration of such a report, the State party submitted an update. The Committee and the delegation might decide to regard it as an updated report.

13. Mr. ABOUL-NASR said that Mr. Bossuyt's text required a number of changes of form. He also asked what the practical consequences would be if the Committee approved Mr. Bossuyt's proposal.

14. Mr. BOSSUYT said that his proposal was intended only for States whose periodic report was expected very shortly after the consideration of their previous report. It was merely a suggestion for the country rapporteur who would have to draft the Committee's concluding observations.

15. Mr. SHAHI said that it would be preferable not to adopt new procedural rules which might be contrary to article 9 of the Convention, but to resolve the problem case by case, the Committee specifying in its conclusions the date for submission of the next report.

16. Mr. RECHETOV said he agreed with Mr. Shahi. The Committee might lay itself open to criticism if it officially adopted the proposed new rule.

17. The CHAIRMAN asked Mr. Bossuyt to draw up a new version of his proposal, which would be issued under the symbol CERD/C/Misc.12/Rev.2.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; THIRD WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (agenda item 11) (continued)

18. The CHAIRMAN invited members of the contact group who had attended the seminars of the Preparatory Committee's inter-sessional Working Group to report on those meetings.

19. Ms. JANUARY-BARDILL said that, at the meetings, delegations had criticized the fact that the concerns expressed during the regional seminars had not been taken into account in the Secretariat document (A/CONF.189/WG.1/3). The participants had set out to incorporate them, but it had not proved possible to complete such a laborious task and it had been postponed until the next session of the Working Group, which would begin on 7 May 2001. The participants had confined themselves to allowing the members of the Committee and members of non-governmental organizations the right to express their views, which they would not necessarily include in the document. The question of including a statement defining the Committee's role in following up the implementation of the Convention and in the universal ratification of that instrument had given rise to controversy.

20. Mr. VALENCIA RODRÍGUEZ said that, as the inter-sessional Working Group was made up of representatives of governments, the Committee had only observer status. If it wanted its proposals to be taken into account, it could simply submit them to delegations active in the regional groups and try to persuade them to present them in the inter-sessional Working Group.

21. Mr. RECHETOV said that it would be useful to find out whether the proposals of the regional groups not mentioned in the document concerned fundamental issues.

22. Mr. SHAHI said he understood it that the document containing the draft declaration and programme of action of the World Conference (A/CONF.189/WG.1/3) had been the subject of heavy criticism because the recommendations of the regional conferences had not been taken into account. That document contained important references to the work of the various regional conferences, including the latest one, which had been held in Tehran in February 2001. The document was perhaps not exhaustive, but the Secretariat had done everything in its power to

allow for the various recommendations despite the difficult context. Nevertheless, the specific recommendations made in the Committee's contribution to the World Conference's preparatory process (A/CONF.189/PC.1/12) did not seem to have been taken into consideration, and he wondered whether the document had been submitted on time for the inter-sessional Working Group to be able to examine it.

23. The CHAIRMAN noted that, once the document with the Committee's contribution had been completed, it had been sent to the High Commissioner for Human Rights, the Secretary-General of the World Conference, who had thanked the Committee, commended it for the quality of its recommendations and stressed that they would be very useful for the work of the World Conference.

24. Mr. SHAHI said that the contribution would, presumably, be taken into account at the forthcoming meeting of the inter-sessional Working Group, in May 2001. In his view, the problem was that it was an intergovernmental meeting, and States, which were intent on maintaining their prerogatives, did not really want the Committee to attend. It was not the first time that the views of treaty bodies or expert seminars were not taken fully into consideration. For example, a perusal of the draft declaration and programme of action of the World Conference showed that the importance given to early warning and prevention - measures on which the Committee set great store - was clearly insufficient. Admittedly, paragraph 18 of the draft was on prevention, but one might well ask whether the Committee could really play a role in preventing genocide, as the paragraph seemed to suggest. Genocide was usually committed at the instigation of the authorities or political leaders, and it would take much more than good offices missions to prevent it. On the other hand, as the Secretary-General had referred to the need to step up fact-finding missions as part of peacekeeping operations, the Committee might recommend that its members be more closely involved in such missions.

25. Mr. THORNBERRY said that, on the whole, the legal principles on which the prohibition of racial discrimination was based were not set out sufficiently in the draft declaration and programme of action. It was also regrettable, for example, that the preamble to the draft declaration did not contain any reference to developments in recent years, for international law had made considerable progress in a number of key areas, that the question of slavery had been addressed in too simplified a fashion and that questions relating to education, training and informing the public had not been treated in greater detail.

26. Mr. ABOUL-NASR said there was a clear desire to keep the Committee out of the preparations for the Conference. Those who had produced the draft declaration and programme of action of the World Conference had not taken any account of the Committee's observations, and it appeared that the points raised at the regional conferences had not been taken into consideration either.

27. Ms. JANUARY-BARDILL said that it would in fact be very difficult during the meetings of the inter-sessional Working Group for the Committee to have a direct impact on the content of the draft declaration and programme of action, but it should not give up the idea of exerting any influence behind the scenes. The members of the Committee should also examine the content of

the document distributed to them by the contact group at the beginning of the session and hold an exchange of views on the subject in order to define a strategy allowing it to influence the preparatory process of the World Conference.

28. Ms. McDOUGALL said that the inter-sessional Working Group, which she had attended as the coordinator of the Committee's contact group, had encountered enormous difficulties from the outset. The Secretariat had been instructed to draw up the World Conference's draft declaration and programme of action, which should have been based on the declarations of the regional groups and the conclusions of the expert seminars. All the regional groups had considered, from the very start of the deliberations of the inter-sessional Working Group, that the document had not met that criterion. A large part of the meetings had then been given over to discussions between the regional groups and the Bureau in order to find a solution that was acceptable to all. It had proved very difficult to arrive at a decision, and the Secretariat had been asked to establish a compilation of regional documents and to include in it the Secretariat's text as amended during the meetings of the inter-sessional Working Group. But that document had been considered very partially - only as far as the second operative paragraph of the draft declaration, and no one knew exactly what the status of the amendments adopted so far was. It would appear that the entire process had not constituted final negotiations but rather a simple exchange of different views. An intermediate meeting of the inter-sessional Working Group should be organized to consider the documents from the various regional groups.

29. Again, the references to the Convention and the work of the Committee in the Secretariat's document were completely inadequate. However, she had succeeded in having a paragraph inserted in the draft preamble to the declaration that would make specific reference to the Convention. For the Committee, the best way to proceed would probably be to consider the draft declaration and programme of action and propose to the Secretariat and the various regional groups the changes it would like to see in the text, paragraph by paragraph.

30. Mr. SHAHI, referring to Ms. McDougall's suggestion, wondered what the value would be of the amendments the Committee proposed to make, as opposed to the document prepared by Mr. Valencia Rodríguez, which was regarded as the Committee's contribution.

31. The CHAIRMAN said that the document issued under the symbol A/CONF.189/PC.1/12 continued to be the Committee's contribution to the preparatory process of the World Conference.

32. Ms. McDOUGALL said that, irrespective of that contribution, the Committee must continue to pay close attention to the process of elaborating the draft declaration and programme of action of the World Conference. At the meetings of the inter-sessional Working Group of the Preparatory Committee, she had always been able to take the floor whenever she had wished and had easily won the support of delegations when she had proposed the insertion of a particular reference in the text under consideration.

33. Mr. BOSSUYT said he too thought that, having prepared the document that served as its contribution to the preparatory process of the World Conference, the Committee must now make suggestions on references to the Convention and the Committee it would like to see inserted in certain paragraphs of the draft declaration and programme of action. He proposed that the

Committee should forward those suggestions to the Conference secretariat with a request for them to be included in the draft text and also to the regional groups' chairpersons, whose role in the Preparatory Committee was crucial.

34. Mr. ABOUL-NASR endorsed Mr. Bossuyt's proposal and recommended that the Committee should prepare very specific suggestions in writing.

35. Mr. SHAHI said that, to do so, it would be useful for the Committee to have the latest revised version of the draft declaration and programme of action.

36. The CHAIRMAN said he took it that the members of the Committee agreed to draw up specific suggestions for the inclusion of references to the Convention and the Committee in the draft declaration and programme of action that would be submitted to the second Preparatory Committee and then to the World Conference. Noting that the Secretary-General of the Conference, who was the United Nations High Commissioner for Human Rights, was to speak to the Committee on Wednesday, 14 March at 10 a.m., he proposed that the Committee's suggestions regarding the draft declaration and programme of action should be given to her on that occasion so that she could forward them to the appropriate officials in the World Conference secretariat. The Committee might also meet with the chairpersons of the regional groups before the end of the session so that they, too, could be given the Committee's suggestions on the draft declaration and programme of action. Time was of the essence, and the contact group could henceforth work on the basis of the draft declaration and programme of action in document A/CONF.189/WG.1/3. Although it had not received the approval of the regional groups and the Conference secretariat had been instructed to revise it, the document was still usable. However, the secretary of the Committee might obtain the latest revised version of the draft declaration and programme of action and circulate it to members as soon as possible.

37. Lastly, he asked Ms. McDougall to convene the contact group as soon as possible to prepare a paper containing the Committee's proposals relating to the draft declaration and programme of action. The paper would be submitted to the Committee for approval. He pointed out that the contact group was open-ended, and invited all interested members of the Committee to attend.

The meeting rose at 1 p.m.